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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/563,907

07/10/2006

Stephane Beranger

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EXAMINER

REIS, RYAN ALEXANDER

ART UNIT

PAPER NUMBER

3752

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/563,907	Applicant(s) BERANGER ET AL.	
	Examiner RYAN REIS	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/10/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The “swirling means” is not adequately described in the specification and it is unclear what how the swirling means functions.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4,257,560 to Diamond (Diamond).

As to claim 1, Diamond discloses a fluid-product dispensing head intended to be fitted to a fluid product dispensing device, the head including: a body (50) forming a dispensing channel (60) having a substantially axial inlet (54), open downwards and intended to be connected to the dispensing device, and a lateral outlet (62) opening onto an external peripheral area of the body, and an external crown (83) forming a dispensing orifice (100 and 102 or 112), the body being mounted in the crown so that the lateral outlet of the channel communicates with the dispensing orifice, characterized in that the crown includes abutment means (92), with the body forming a bearing surface (between 52 and 92) in abutted contact with the abutment means, the body being capable of axial insertion into the crown from above.

As to claim 2, Diamond discloses the abutment means includes an abutment rim (92) on which the bearing surface presses, the rim forming an abutment zone facing substantially upwards, while the bearing surface is oriented substantially downwards (see Figure 1).

As to claim 3, Diamond discloses the crown includes a cylindrical internal wall (inside of 84) in sealed contact with the external peripheral area of the body, the

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abutment means being located at the lower or upper edge of this cylindrical internal wall (see Figure 1).

As to claim 5, Diamond discloses a covering band (82) in which the crown and the body are mounted.

As to claim 6, Diamond discloses the band includes a substantially cylindrical skirt (portion surrounding 119) pierced with a lateral opening (110 and 114) and an upper wall (94) closing off the skirt at its upper end, where the crown includes an external wall (outside of 119) at which the dispensing orifice (112) emerges, the crown being located in the band with the dispensing orifice positioned facing the lateral opening (see Figure 3).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 4,257,560 to Diamond.

As to claim 4, Diamond discloses the claimed invention above except for expressly disclosing swirling means formed upstream of the dispensing orifice.

However, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have made the device of Diamond with swirling means upstream of the dispensing orifice in order to achieve a desired spray. Swirling means are well known in the art.

8. Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 4,257,560 to Diamond in view of US Patent 5,385,303 to Gosselin et al. (Gosselin et al.).

As to claims 7, 8 and 9, Diamond discloses the claimed invention above as well as the band (82) and crown (83) always together and moving together (see column 6, lines 57-65) but does not expressly disclose the locking means.

However, Gosselin et al. discloses a band (19) with a skirt (23), a crown (13), a body (29), and locking means including at least one locking profile (flanges at 22) formed within the skirt, the crown engaging the at least one locking profile (at flanges in lower portion of 13; see Figures 2 and 3) so as to prevent extraction of the crown from the band, the body thus being locked between the crown and the upper wall of the band (see column 6, lines 52-63).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to have made the device of Diamond with at least one locking profile as taught by Gosselin et al. in order to secure the crown and body within the band.

As to claim 10, Diamond modified by Gosselin et al. discloses the skirt includes a lower edge (22) folded inwards (inner flange at 22), the edge forming a locking extremity oriented upwards in the direction of the upper wall (see Figure 4C).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents 3,083,872 to Meshberg and 3,176,888 to Focht show fluid-product dispensing heads with a body having an axial inlet and lateral dispensing channel wherein the body fits within a crown and rests on a bearing surface.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN REIS whose telephone number is (571)270-5060. The examiner can normally be reached on Monday through Friday 8:00am to 6:00pm EST.

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11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RR/

Examiner, Art Unit 3752

/Len Tran/

Supervisory Patent Examiner, Art Unit 3752